REMARKS

Claims 1-26 stand rejected under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 5,919,364 (Lebouitz et al.). Claims 1-12, 20 and 26 have been canceled. Claim 27 has been added. The remaining claims have been amended to patently distinguish over Lebouitz et al.

Specifically, claim 13 has been amended to specify that a residual stress of the silicon layer is controlled to insure that the silicon layer has a residual stress within a range of between about –50 to 50 mega-Pascals. Claim 16 has been amended to call for monitoring a residual stress of the silicon layer to insure that the silicon layer has a residual stress within a range of between about –100 to 100 mega-Pascals and a grain structure including grains defining pores therebetween wherein the grains have an approximately hemispherical shape. Claim 17 has been amended to also include a monitoring step.

Lebouitz et al. discloses forming a permeable polysilicon membrane 104 over a frame structure 102. The flow of fluid through openings 108 in the membrane structure 104 is representated by arrow 108. (see Fig. 3).

There is absolutely no disclosure, however, in Lebouitz et al. of controlling the residual stress of the polysilicon membrane 104 to insure that it has a residual stress within a range of between about –50 to 50 mega-Pascals. Additionally, there is absolutely no disclosure in Lebouitz et al. of monitoring the residual stress of the polysilicon membrane 104 such that the membrane 104 has a residual stress within a range of between about –100 to 100 mega-Pascals and a grain structure including grains defining pores therebetween wherein the grains have an approximately hemispherical shape.

Lacking such disclosure, Lebouitz et al. clearly cannot anticipate nor would it have rendered obvious Applicant's claimed invention.

In view of the foregoing, it is submitted that all the claims are now in condition for allowance. Accordingly, allowance of the claims at the earliest possible date is requested.

If prosecution of this application can be assisted by telephone, the Examiner is requested to call Applicant's undersigned attorney at (510) 495-3206.